IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Revision No. 2 of 1992

Date of Decision :- March 17, 2007

Labh Kumar and another ....PETITIONERS

VERSUS

State of Punjab ....RESPONDENT

CORAM: HON'BLE MR. JUSTICE MEHTAB S.GILL

Present:- Mr. J.B.S.Gill, Advocate (Amicus Curiae)
for the petitioners.

Mr. Manwinder Singh Sidhu, DAG Punjab.

MEHTAB S.GILL, J.

This is a revision against the judgment dated 20.12.1991 of the Additional Sessions Judge, Ropar, whereby he modified the judgment dated 26.7.1989 of the Additional Chief Judicial Magistrate, Ropar by setting aside the conviction of the petitioners under Section 406 IPC and affirming their conviction under Section 420/120-B and sentence of one year RI and Rs.500/- fine.

The case of the prosecution is unfolded by the statement Ex.PA of Ram Rattan Kaushal, wherein he stated that in August, 1984 Prem Sagar and his brother-in-law Labh Kumar alias Pappu approached

Comrade Ram Rattan Kaushal. Prem Sagar told him that his brother-in-law Labh Kumar was employed in an English Firm at Lebanon and had come to India to do some business. Labh Kumar could arrange employment for his son in Lebanon on a monthly salary of Rs.6,000/- and he would charge Rs.18,000/- for this favour. Comrade Ram Rattan Kaushal issued a cheque dated 14.8.1984 in favour of Labh Kumar alias Pappu for Rs.2,000/-. On 28.8.1984 he paid Rs.6,000/- in cash. Another cheque of Rs.10,000/- was issued on 1.9.1984. In total a sum of Rs.18,000/- was given. Both accused Labh Kumar and Prem Sagar stated, that they did not have any money to go abroad and requested Comrade Ram Rattan Kaushal to give them more money. Cheque dated 18.9.1984 amounting to Rs.3,000/- was given and Rs.1,000/- cash was also given. A total sum of Rs.22,000/- was given. A tourist visa for Missar (Egypt) was arranged. Suresh Kumar was sent to Missar (Egypt) by giving him the address of a hotel. On reaching Missar (Egypt), Prem Sagar, who had accompanied him, stole the return ticket of Suresh Kumar. On 15.10.1984 Prem Sagar wrote a letter to his father-in-law Gian Chand that Labh Kumar alias Pappu had not reached Missar (Egypt), nor he had taken them to Lebanon. Comrade Ram Rattan Kaushal made inquiries from Gian Chand as to where his son was, but no satisfactory answer was given. Suresh Kumar was deported to India after 8 months with an additional expenditure of Rs.8,000/-.

The prosecution to prove its case brought into the witness box Comrade Ram Rattan Kaushal as PW1, Suresh Kumar as PW2, Tarlochan Singh Manager State Bank of Patiala as PW3, Subhash Chand Pathak

Asstt. Manager Punjab National Bank as PW4, Gulzar Gir as PW5, Puran Singh Postman as PW6, Hans Raj Head Constable as PW7, ASI Jaswant Singh as PW8, Gurdev Singh Postal Asstt. As PW9 and Chuhar Singh as PW10.

Comrade Ram Rattan Kaushal PW1 has fully supported the case of the prosecution and narrated the averments made in his complaint Ex.PA and FIR Ex.PA/1. He further gets corroboration from the statements of his son Suresh Kumar PW2, who was sent to Missar (Egypt) and Gulzar Gir PW5. Tarlochan Singh PW3 Manager, State Bank of Patiala proved the payments of cheques PW3/A for Rs.10,000/- and Ex.PW3/B for Rs.3,000/-. Subhash Chand PW4 Asstt. Manager, Punjab National Bank proved the payments of cheques Ex.PW4/1 for Rs.6,000/- and Ex.PW4/2 for Rs.2,000/-.

I have heard the learned counsel for the parties, perused the record and the impugned judgments with their assistance.

From the testimony of the prosecution witnesses, it is clear that Suresh Kumar was taken to Missar (Egypt), but thereafter the promise of being taken to Lebanon was not fulfilled by the petitioners/accused. Complainant Ram Rattan Kaushal PW1, Suresh Kumar PW2, Gulzar Gir PW5 and Chuhar Singh PW10 have categorically stated, that a conspiracy has been hatched by both the petitioners/accused to extract money from the complainant, by falsely giving a promise that his son would be settled in Lebanon at a monthly salary of Rs. 6,000/-. Petitioners, apart from a simple denial, have not furnished any proof of having not received any

amount from complainant Comrade Ram Rattan Kaushal and the reasons as to why this amount was taken by them through cheques.

I do not find any infirmity in the judgment of the learned appellate Court. Conviction of the petitioners is maintained.

Sentence seems to be on the harsher side, as the sword of conviction is hanging over the head of the petitioners for the last 23 years. Sentence of the petitioners is modified to that already undergone.

With the above modification in the order of sentence, revision petition is dismissed.

March 17, 2007 **(MEHTAB S.GILL)**
ska **JUDGE**

WHETHER TO BE REFERRED TO REPORTER? YES/NO